

(Without Reference to File)

SENATE THIRD READING
SB 1447 (Bradford, et al.)
As Amended August 27, 2020
Majority vote. Tax Levy

SUMMARY:

Allows, for each taxable year beginning on or after January 1, 2020, and before January 1, 2021, a small business hiring credit to a "qualified small business employer" that receives a tentative credit reservation.

Major Provisions

- 1) Provides that the credit shall equal \$1,000 for each net increase in "qualified employees", as specified. The credit, however, is capped at \$100,000 per "qualified small business employer".
- 2) Defines a "qualified small business employer" as a taxpayer meeting both of the following requirements:
 - a) Employed 100 or fewer employees as of December 31, 2019; and,
 - b) Experienced a 50% decrease in gross receipts determined by comparing gross receipts for the three-month period beginning on April 1, 2020, and ending June 30, 2020, with the gross receipts for the three-month period beginning on April 1, 2019, and ending June 30, 2019, if it would have met the requirement of having a significant decline in gross receipts for that quarter as determined under Section 2301(c)(2)(B)(i) of Public Law 116-136.
- 3) Provides that a "qualified small business employer" does not include a taxpayer required to be included in a combined report under Revenue and Taxation Code (R&TC) Section 25101 or 25110, or authorized to be included in a combined report under R&TC Section 25101.15.
- 4) Defines a "qualified employee" as an employee paid "qualified wages" by a qualified small business employer. A "qualified employee" shall not, however, include an employee whose wages are included in calculating any other credit allowed under the Personal Income Tax (PIT) Law or the Corporation Tax (CT) Law.
- 5) Defines "qualified wages" as wages subject to Unemployment Insurance Code Section 13000 *et seq.*
- 6) Provides that the net increase in qualified employees shall be determined by subtracting the amount determined in paragraph a) from the amount determined in paragraph b):
 - a) The average "monthly full-time equivalent" qualified employees employed during the three-month period beginning April 1, 2020, and ending June 30, 2020, by the qualified small business employer. The average "monthly full-time equivalent" qualified employees shall be determined by adding the total "monthly full-time equivalent"

qualified employees employed by the qualified small business employer for all three months and dividing the total by three; and,

- b) The average "monthly full-time equivalent" qualified employees employed during the five-month period beginning July 1, 2020, and ending November 30, 2020, by the qualified small business employer. The average "monthly full-time equivalent" qualified employees shall be determined by adding the total "monthly full-time equivalent" qualified employees employed by the qualified small business employer for all five months and dividing the total by five.
- 7) Defines "monthly full-time equivalent" as either of the following:
- a) In the case of a qualified employee paid hourly qualified wages, "monthly full-time equivalent" means the total number of hours worked per month for the qualified small business employer by the qualified employee, not to exceed 167 hours per month per qualified employee, divided by 167; and,
 - b) In the case of a salaried qualified employee, "monthly full-time equivalent" means the total number of weeks worked per month for the qualified small business employer by the qualified employee divided by 4.33 multiplied by the "time base" the qualified employee worked.
- 8) Provides that any deduction otherwise allowed for qualified wages shall be reduced by the amount of the credit allowed.
- 9) Provides that a credit shall only be allowed on timely filed original returns.
- 10) Provides that the date a return is received shall be determined by the Franchise Tax Board (FTB).
- 11) Authorizes the FTB, notwithstanding existing law, to provide information to the California Department of Tax and Fee Administration (CDTFA) related to the credit, including the qualified small business employer names, amounts of tax credits allowed, and the net increase in qualified employees.
- 12) Provides that the statutory provisions authorizing the income tax credit shall remain in effect only until December 1, 2021, and are repealed as of that date.
- 13) Directs CDTFA to allow a qualified small business employer that has made an irrevocable election pursuant to this bill to apply the small business hiring credit amount against "qualified sales and use taxes" imposed on the qualified small business employer, as follows:
- a) For monthly filers, the credit shall apply to amounts due and payable for the month beginning on March 1, 2021, ending on March 31, 2021, and due April 30, 2021;
 - b) For quarterly filers, the credit shall apply to amounts due and payable for the quarter beginning on January 1, 2021, ending on March 31, 2021, and due April 30, 2021; and,
 - c) For annual filers, fiscal year filers, or a qualified small business owner on any other reporting basis, the credit shall apply to amounts due and payable on the first return due on or after April 30, 2021.

- 14) Defines "qualified sales or use taxes" as any sales and use taxes imposed by R&TC Section 6001 *et seq.* and Section 35 of Article XIII of the California Constitution, local sales and use taxes imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law, and local transactions and use taxes imposed in accordance with the Transactions and Use Tax Law.
- 15) Establishes the Small Business Hiring Credit Fund in the State Treasury for the sole purpose of applying the small business hiring credit allowed by this bill. Any unused money remaining in the fund shall be transferred to the General Fund by June 1, 2026.
- 16) Directs qualified small business employers to submit an application to CDTFA, as specified, for a tentative credit reservation amount for the small business hiring tax credit allowed under the PIT Law, the CT Law, or both.
- 17) Caps at \$100 million the aggregate amount of credit that may be allocated under this bill's provisions.
- 18) Takes immediate effect as a tax levy.

COMMENTS:

What would this bill do? This bill would allow, for taxable years beginning on or after January 1, 2020, and before January 1, 2021, a "small business hiring credit" to qualified small business employers that apply for and receive a tentative credit reservation. This credit would be available to taxpayers filing under either the PIT Law or the CT Law. To qualify for the credit, however, the small business employer would have to meet two requirements: First, as of December 31, 2019, the employer must have employed 100 or fewer employees and, second, the employer must have experienced a 50% decrease in gross receipts. This calculation would be made by comparing 2020 Second Quarter gross receipts with 2019 Second Quarter gross receipts.

For qualifying taxpayers, the credit amount would equal \$1,000 for each net increase in qualified employees. This net increase, in turn, would be calculated by comparing the taxpayer's average number of employees for the Second Quarter of 2020, with the average number of employees for the five-month period beginning July 1, 2020, and ending November 30, 2020. The credit itself would be capped at \$100,000 per taxpayer.

Unlike the vast majority of income tax credits, this bill would also allow qualified small business employers to make an irrevocable election to apply the credit amount against qualified sales and use taxes imposed on the employer. This is likely being done to assist retailers that have limited income tax liability but do have sales and use tax liabilities for sales of TPP.

Finally, this bill caps at \$100 million the aggregate amount of credit that may be allocated under this bill's provisions.

According to the Author:

Senator Bradford, who is a joint author of this measure, notes the following:

Since the start of the COVID-19 pandemic, many small businesses have been struggling to stay afloat. In May, McKinsey released data indicating that more than a third of vulnerable

private-sector workers in California were employed by small businesses. Small businesses are vital not only as a way for hardworking individuals and their families to build wealth, but also as an engine of job growth. This is especially true of minority-owned and other diverse business enterprises. California has sought to assist struggling small businesses in a variety of complementary ways, including zero-interest sales and use tax deferrals. SB 1447 further assists small businesses by providing those that hire new employees with a tax credit that can also offset sales and use tax liabilities, helping them to persist through this state of emergency.

Arguments in Support:

This bill is supported by the California Chamber of Commerce, which notes:

Businesses of all sizes are reeling from the catastrophic impacts of COVID-19 and California is experiencing unemployment levels similar to those seen during the Great Depression. SB 1447 begins to address these pervasive issues and provides employers impacted by the pandemic with an avenue to begin the economic recovery process.

Arguments in Opposition:

None on file

FISCAL COMMENTS:

Unknown

VOTES:

SENATE FLOOR: 39-0-1

YES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dahle, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Jackson, Jones, Leyva, McGuire, Melendez, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Hurtado

ASM JUDICIARY: 11-0-0

YES: Mark Stone, Gallagher, Chau, Chiu, Gonzalez, Holden, Kalra, Kiley, Limón, Obernolte, Reyes

ASM REVENUE AND TAXATION: 10-1-0

YES: Burke, Chu, Gray, Mayes, Mullin, Petrie-Norris, Quirk, Luz Rivas, Kiley, Mathis

NO: Levine

UPDATED:

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